

JUSTICE REIMAGINED- JOINT JURISDICTIONAL APPROACH



AGENDA

Overview- What is a Joint Jurisdictional Court?

Background- How it all started

Reimagining Possibilities- Challenges are Opportunities

Tips for Success- Lessons Learned from Joint Courts

Resources to Replicate the Approach

OVERVIEW
WHAT IS A JOINT JURISDICTIONAL COURT?

- Two Judges Hear Cases Together
- Under Laws of: Tribe, State, Federal Govt
- In Non-adversarial Setting
- Blending Tribal Healing to Wellness and Collaborative Court Approaches
- Family Wellness Team
 - Coordinates Tribal and County Services
 - Culturally Attuning Services
 - Tailoring them for each family

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NOT JUST A TRIBAL HEALING TO
WELLNESS COURT
NOT JUST A COLLABORATIVE COURT

Jurisdiction is exercised jointly when a tribal court judge and a state or federal court judge come together to exercise their respective authority simultaneously, bringing together justice system partners and leveraging resources to promote healing and protect public safety.

WHEN TO USE THE JOINT JURISDICTIONAL COURT APPROACH?

- When both sovereigns have jurisdiction
- When the judicial leaders believe they can reimagine a better way
- When there is some level of partnership readiness to work together

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REIMAGINE JUSTICE

Follow in the Footsteps of Other Judges' and Partners'

- Adult Drug Court (DUI/DWI)
- Juvenile- Diversion, Delinquency, Re-Entry
- Juvenile Dependency (also called Family Drug Court, Family Dependency Treatment Court)
- Any Case Type.....

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WHERE ARE JOINT JURISDICTIONAL COURTS?

Alaska: Kenaitze Indian Tribe-Alaska Court System

California

Shingle Springs Band of Miwok Indians – El Dorado County Superior Court
Yurok Tribe-Humboldt Superior Court/Del Norte Superior Court
Hoopa Tribe-Humboldt Superior Court

Minnesota

Leech Lake Ojibwe- Cass County & Itaska County
White Earth Nation and Mahnomon County District Court

New York/Canada: St. Regis Mohawk-U.S. and Canadian courts

Wisconsin

Ho Chunk Nation-Jackson County
Forest County Potawatomi-Forest County

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BACKGROUND

How it all Started

“Poverty, addiction, and hopelessness know no jurisdictional boundaries” Hon. Korey Wahwassuck

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LEECH LAKE BAND OF OJIBWE TRIBAL
COURT AND CASS COUNTY
REPLICATED IN ITASKA COUNTY

- Common Goals
 - Reducing disproportionate minority contact
 - Fewer children in out of home placement
 - Addressing the epidemic of drug and alcohol abuse
 - Reducing number of DWI's and traffic fatalities
- 2006 Joint Wellness Court
 - Clients include Tribal Members and Non-Indians
 - Wellness Court sessions by ITV in Walker & Cass Lake
 - Multi-jurisdictional, multi-agency participation
 - Operated on handshake for over a year

WELLNESS COURT SUCCESS STORIES
IMPROVED OUTCOMES
BETTER TOGETHER

- Participants reunited with children/families
 - Valid driver's licenses
 - Employment/school
 - Ending abusive relationships
 - Participants have tens of thousands of days of documented sobriety between them
 - Significant reduction in recidivism –
 - Leech Lake/Cass as low as 6.66% Leech Lake/Itasca 16%
- (cf. Minnesota/National 60%+ & Millions of dollars saved in incarceration and out of home care costs)

SHINGLE SPRINGS BAND OF MIWOK INDIANS AND EL DORADO COUNTY

- California Tribal Court State Court Forum
- Courts Applied for TA Grant
- Awarded to Shingle Springs and El Dorado to Address School to Prison Pipeline
 - All families successfully complete the program
 - No new school referrals since end of last school year
 - Increased collaboration with County School Attendance and Review Board and Probation to provide early intervention

REIMAGINING
POSSIBILITIES

Challenges are
Opportunities

“Challenges are what
make life interesting.
Overcoming them is
what makes them
meaningful.”

NORTHERN CA EXPERIENCE

Northern CA Tribal
Court Coalition
(NCTCC)
Yurok-Humboldt First
Yurok-Del Norte
Hoopa-Humboldt



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NORTHERN CALIFORNIA: CHOOSING THE CASE TYPE AND REPLICATING THE APPROACH



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AREA OF MUTUAL CONCERN
WOMEN, CHILDREN, FAMILIES
INTERSECTION OF CHILD WELFARE AND
SUBSTANCE USE

- **Antepartum maternal opioid use increased nearly 5-fold from 2000 to 2009** (hospital discharge codes study). SU is a major risk factor for pregnancy-associated deaths (MMRs)
- **NAS rates increased from 1.5 to 6.0 per 1,000 births** between 1999 and 2013. States with highest rates of opioid prescribing have highest rates of NAS.
- **MAT is treatment of choice** for OUD during pregnancy. Withdrawal is contraindicated. NAS expected and treatable.
- **Concerns about losing children:** Infants with NAS do better when they stay connected with their mothers. 24 states + DC consider SU during pregnancy to be child abuse, 23 states + DC mandatory reporting, 7 states require drug testing if suspect OU.
- Women more likely to enter treatment, stay in treatment, and maintain abstinence if they can **stay with their children**

ACOG 2018, OWH 2017, APA 2018

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FUNDING TO ADDRESS REGIONAL ISSUES

- CA Judicial Council Innovation Grant
- CAPTA Dollars through the Children's Bureau (QIC Grant)
- Regional Issues
 - Massive overprescribing
 - Hot spot for rate of opioid deaths
 - Lack of access to SUD treatment- shortage of local services, no follow-up after residential treatment, and stigma/shame prevents access to prenatal care
 - Isolation- geography, no internet in some areas, no telemedicine
 - Transportation
 - Few/no jobs
 - Other

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PARADIGM SHIFT

Current State/County Justice Systems- generally

- Lack of access to culture/spirituality and to our home communities
- Higher percentage of alcohol and drug related behavior resulting in imprisonment.
- Overreliance on child removal, pushing kids out and punishment
- Overreliance on incarceration and lack of a therapeutic approach to justice

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IN CALIFORNIA WE ARE MAKING A SHIFT AND DESIGNING NEW LOCAL JUSTICE SYSTEMS THAT EMPOWER FAMILIES

- Respect for different traditions
- Healing individual and community trauma
- Access to tribe-specific culture/spirituality in our home communities
- Move away from punishment to healing
- Move away from supporting our families in silos to a coordinated team/extended family approach
- Conclusion: We have been facing the wrong way!

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HOOPA-
HUMBOLDT
JOINT
JURISDICTION
COURT



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CHILD WELFARE CONTEXT
WHY FOCUS ON SUBSTANCE ABUSE?

- **There is a consistent link between child welfare issues and substance abuse in the family-80-90%**
- Children in the child welfare system whose parents have substance abuse problems are
 - Younger than other children in the system
 - More likely to be the victims of neglect rather than abuse
 - More likely to be placed in foster care rather than served while remaining at home.

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WHAT DOES THE SCIENCE TELL US? TREATMENT WORKS!

- Rate of abstinence from drugs of abuse is comparable to medication compliance in diabetes and hypertension
- Brief interventions in pregnancy are as effective as traditional treatment modalities.
- Interventions in prenatal care setting significantly reduce rates of low birth weight, prematurity, newborn seizures, NICU admissions, infant mortality, and long term intellectual disabilities in the child
- Early intervention for children affected by prenatal substance exposure significantly enhances the child's long-term developmental trajectory
- Interventions attuned to protective factors, like community and culture builds resilience and improves outcomes.



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HOW TO MAKE IT WORK

- Tribal Engagement
 - Council and Community
- County Engagement
 - Breaking down Siloes
- Tribal/County Relationships
 - Stakeholder meetings
 - Keeping eye on the prize with focused action planning
 - Addressing challenges

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KEY COMPONENTS

- Identify Families Early
- Provide Timely Access to Assessment and Treatment Services
- Use Treatment Strategies That Have Proven Successful
 - Family Mentors
 - Evidenced-based and trauma-informed
 - Culturally attuned treatment services for parents, children, and families, tapping their resiliencies by strengthening their connection to their tribes

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KEY COMPONENTS CONTINUED

- Frequent Two Judge Contact with Families
 - Single biggest influence on the success of participation
- Therapeutic and Motivational Responses
 - Parents have a brain disorder that influences their thinking and actions
 - We know they are going to mess up, but “we are there to catch them when they stumble”
- Tribe-Specific and Culturally Appropriate Responses
 - Based on phase of program and length of sobriety
 - Informed by tribal values
 - Tailored for each family with the family

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GOALS AND ACCOMPLISHMENTS

- Tribal/County relationships are strengthened
- Tribal Sovereignty is better understood and strengthened
- Title IVE Agreements are advanced
- Cultural/Community ties are reconnected and strengthened
- Evidenced-based practices are tailored for each community
- Silos are broken down across departments in a County and inter-jurisdictionally between the Tribe and County
- Leveraged services and new services– Road to Resilience

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TIPS FOR SUCCESSFUL COLLABORATIONS

Lessons Learned from all
Joint Jurisdictional Courts

- Communication
- Planning
- Culture
- Persistent Vision

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TIPS FOR SUCCESSFUL COMMUNICATION

- Select a skilled facilitator
- Promote mutual respect, trust, understanding
- Accept discomfort and conflict
 - Seek areas of agreement and stay focused on results
 - Agree to disagree – healthy disagreement builds better decisions
- Collaboration between governments starts with relationships between two or more people sharing common goals

TIPS FOR PLANNING

- Map the current system
 - Identify opportunities for improvement
 - Ensure local needs determine court structure and procedures
- Form follows function
 - Identify client and local needs:
 - Court structure and coordinated services to meet those needs
- Reimagine: “don’t be afraid to try something new”
 - Educate the planning team on the joint jurisdictional approach
 - Let the planning team create: “we support what we create”
- Measure results: “what gets measured, gets funded”
- Expect turnover
 - Plan for leadership and staff transitions by creating “warm hand-off” to support successors

TIPS FOR INCORPORATING CULTURE

- Ensure culture and its healing properties are incorporated into the planning, development and implementation of the court structure
- Educate team on the Tribe-specific history and culture
- Educate team on best practices, which include those that are evidenced-based and draw upon the protective factors that connection/community provide and has been documented with Tribal communities

BUILDING A SHARED VISION

- Remember...change is hard
- Systems don't collaborate, people do
- Helpers have their own histories of trauma
- Focus on common goals
- **DON'T GIVE UP!!!!**

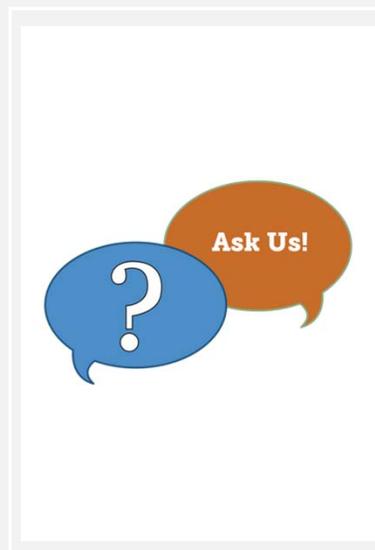
GETTING THERE TOGETHER

Our mothers
Our infants
Our families
Our communities



RESOURCES AND DISCUSSION

Healing to Wellness
Collaborative Courts
Joint Jurisdiction
Trauma Informed Practices
Indigenous Healing



HEALING TO WELLNESS & COLLABORATIVE COURTS

Tribal Healing to Wellness (produced by Tribal Law and Policy Institute) and Family Dependency Treatment Courts (produced by CA Association of Collaborative Courts and American Bar Association)

- www.wellnesscourts.org/tribal-key-components/index.cfm
- www.ca2c.org/defining-drug-courts-ten-key-components/
- <https://cff-cav56vrdcl.netdna-ssl.com/wp-content/uploads/2018/07/Seven-Common-Ingredients-for-Family-Treatment-Courts.pdf>

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FAMILY DEPENDENCY TREATMENT COURTS

- Tutorials produced by the National Center for Substance Abuse and Child Welfare
 - [Tutorial 1: Understanding Child Welfare and the Dependency Court: A Guide for Substance Abuse Treatment Professionals](#)
 - [Tutorial 2: Understanding Substance Use Disorders, Treatment, and Family Recovery: A Guide for Child Welfare Professionals](#)
 - [Tutorial 3: Understanding Substance Use Disorders, Treatment, and Family Recovery: A Guide for Legal Professionals](#)

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JOINT JURISDICTION COURTS

- The New Face of Justice: Joint Tribal-State Jurisdiction, Washburn Law Journal (Vol. 47, No. 3, Spring 2008)
- Building a Legacy of Hope: Perspectives on Joint Tribal-State Jurisdiction, William Mitchell Law Review (Vol. 36 , Issue 2, 2010)
- “Joint Jurisdiction Courts: A Manual for Developing Tribal, State & Federal Justice Collaborations” (2nd Edition) Available at www.walkingoncommonground.org

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TRAUMA-INFORMED PRACTICES

- Trauma-Informed Practices and Tribal Families produced by SAMHSA <https://ncsacw.samhsa.gov/resources/trauma/tribal-families-and-trauma-exposure.aspx>
- National Child Traumatic Stress Network (NCTSN)

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INDIGENOUS HEALING

Produced by Capacity Building Center for Tribes:
<https://www.youtube.com/playlist?list=PLR4JDLysj7WOiKV9DRP5IWolI17TaKlek>

- [1. We Are All Connected](#)
- [2. Individual & Family Healing](#)
- [3. Community & Organizational Healing](#)

Indigenous Cultural Wellbeing Measures Literature Review, compiled by Lisa G. Dirks, Southcentral Foundation (2016)

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THANK YOU!

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